



Office of U.S. Rep. George Nethercutt
Washington's 5th District
223 Cannon House Office Building
Washington, DC 20515

NEWS RELEASE

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Contact: April Gentry
(202) 225-6067

Nethercutt, Inslee, Boucher introduce 'Internet Radio Fairness Act' *'No one wins under the current standard,' Nethercutt says*

WASHINGTON--Disappointed in the Librarian of Congress' recent imposition of high fees on web radio broadcasters and the resultant shut-down of many web radio broadcasts, U.S. Reps. George Nethercutt (R-WA), Jay Inslee (D-WA), and Rick Boucher (D-VA) introduced new legislation to change existing web radio laws. The bill is designed to make the copyright royalty arbitration process more fair for smaller entities, and will go before the House of Representatives' Judiciary and Small Business Committees.

"No one wins under the current CARP standard," Nethercutt said. "Webcasters will close shop, consumers lose access to a wide selection of programming, and copyright holders collect nothing. Our legislation protects small businesses from the onerous CARP ruling, ensuring the continuation of webcasting, and incidentally, creating a long-term revenue stream for copyright holders."

Said Inslee, "Congress should support creative and innovative uses for new technology, not drive small web radio broadcasters out of business with huge fees. We need to refine the current law on digital technology quickly, before more small web radio broadcasters are forced out of business. Changing the standard for setting royalty rates is crucial to the survival of this innovative sector. We seek a balance between just compensation and Internet development. This process must be fair but not free."

Said Boucher, "Unfortunately, both the CARP and the Librarian of Congress were working under a flawed law that has produced a royalty rate which harms not only the hundreds of webcasters that have already shut down operations, but also Internet users seeking innovative music programming and artists seeking alternative avenues through which to promote their music."

Currently, a Copyright Royalty Arbitration Panel (CARP) meets once every two years to decide on royalty fees for web radio broadcasters. The first webcasting CARP was completed in February, but the rate decisions were modified by the Librarian of Congress in June. While Congress has enacted laws to guide the CARP process, the result of this first webcasting CARP demonstrated some structural flaws in the process that Congress must remedy.

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Some highlights of the Nethercutt-Inslee-Boucher Internet Radio Fairness Act include:

1. Small businesses (those that -- six million dollars in gross revenue) will be exempted from last week's decision by the Librarian of Congress's on fees for web radio. The royalty ruling would stand for larger web radio providers.
2. All future CARPs must change the royalty rate standard from the "willing-buyer/willing-seller" to the "traditional" standard that was enacted by the 1976 Copyright Act. Royalty payments for the small businesses that have been exempted from the current CARP decision will be calculated using the traditional standard, and rolled into the next CARP.
3. Small businesses will be exempted from the payment requirement for participation in future CARP proceedings. During this last CARP, all participants were forced to pay an equal share of the total costs; large industry interests were represented in the proceedings, but many small businesses were unable to participate.
4. All future CARPs must eliminate fees for temporary recordings ("ephemeral recordings") that web radio broadcasters create to facilitate the transmission of the song to users. The Registrar of Copyrights has determined that these temporary recordings have no independent economic value, and should not be subject to a separate royalty payment. Broadcasters should not be charged for temporary storage files that listeners never hear and which are not saved.
5. All future CARPS must comply with the Regulatory Flexibility Act. This will require CARPs to specifically consider the impact of any decisions on small businesses.

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